

STATE OF WASHINGTON

BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

MARC ANDERSON,

Complainant,

vs.

KING COUNTY,

Respondent.

CASE 132895-U-20

DECISION 13228 - PECB

ORDER OF DISMISSAL

Marc Anderson, Pro Se.

Robert S. Railton, Deputy Director of Labor Relations, for King County.

On July 14, 2020, Marc Anderson (complainant) filed an unfair labor practice complaint against King County (employer). The complaint was reviewed under WAC 391-45-110.¹ A deficiency notice issued on July 30, 2020, notified Anderson that a cause of action could not be found at that time. Anderson was given a period of 21 days in which to file and serve an amended complaint or face dismissal of the case.

No further information has been filed by Anderson. The Unfair Labor Practice Administrator dismisses the complaint for timeliness and failure to state a cause of action.

ISSUE

The complaint alleges the following:

¹ At this stage of the proceedings, all of the facts alleged in the complaint or amended complaint are assumed to be true and provable. The question at hand is whether, as a matter of law, the complaint states a claim for relief available through unfair labor practice proceedings before the Public Employment Relations Commission.

Employer refusal to bargain in violation of RCW 41.56.140(4) [and if so, derivative interference in violation of RCW 41.56.140(1)] outside the six month statute of limitations by refusing to provide relevant information requested by the union concerning a grievance investigation.

The complaint is untimely and lacks facts necessary to allege a refusal to provide information violation within the Commission's jurisdiction. Thus the complaint is dismissed.

BACKGROUND

On December 23, 2019, PROTEC17 filed an information request on behalf of Marc Anderson. The information request asked for a response by January 13, 2020. The employer has not provided a response. On July 14, 2020, Marc Anderson filed an unfair labor practice complaint alleging the employer had not responded to the union's information request.

ANALYSIS

Timeliness

There is a six-month statute of limitations for unfair labor practice complaints. "[A] complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission." RCW 41.56.160(1). The six-month statute of limitations begins to run when the complainant knows or should know of the violation. *City of Bellevue*, Decision 9343-A (PECB, 2007) (citing *City of Bremerton*, Decision 7739-A (PECB, 2003)). The start of the six-month period, also called the triggering event, occurs when a potential complainant has "actual or constructive notice of" the complained-of action. *Emergency Dispatch Center*, Decision 3255-B (PECB, 1990).

To determine timeliness, the Commission looks at the dates of the events in the complaint in relation to the filing date. The complaint was filed on July 14, 2020. In order to be timely, the complainant needs to describe events that took place on or after January 14, 2020. The dates included in the complaint include December 23, 2019, and January 13, 2020, both dates are untimely filed.

Duty to Provide Information

The complaint alleges a refusal to provide information violation. Refusing to provide requested information is a refusal to bargain allegation. An employee cannot file a refusal to bargain complaint as an individual. *King County (Washington State Council of County and City Employees)*, Decision 7139 (PECB, 2000) (citing *Clark County*, Decision 3200 (PECB, 1989); *Enumclaw School District*, Decision 5979 (PECB, 1997)). Only the parties to the collective bargaining relationship (the union or the employer) can file a refusal to bargain unfair labor practice complaint.

The union is the only party with standing to file and pursue refusal to bargain claims against an employer. *Spokane Transit Authority*, Decision 5742 (PECB, 1996); *City of Renton*, Decision 11046 (PECB, 2011). Failing to provide information is a type of refusal to bargain case that falls under RCW 41.56.140(4). The union representing the bargaining unit that contains the complainant's job position would have to be the party filing a complaint alleging that the employer failed to provide information. Anderson filed the complaint on his own behalf. Thus, he lacks standing to filing a refusal to bargaining complaint and the complaint must be dismissed.

ORDER

The complaint charging unfair labor practices in the above-captioned matter is DISMISSED for timeliness and failure to state a cause of action.

ISSUED at Olympia, Washington, this 1st day of September, 2020.

PUBLIC EMPLOYMENT RELATIONS COMMISSION


EMILY K. WHITNEY, Unfair Labor Practice Administrator

This order will be the final order of the agency unless a notice of appeal is filed with the Commission under WAC 391-45-350.



RECORD OF SERVICE

ISSUED ON 09/01/2020

DECISION 13228 - PECB has been served by mail and electronically by the Public Employment Relations Commission to the parties and their representatives listed below.

BY: DEBBIE BATES

CASE 132895-U-20

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